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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of

Calling Party Pays Service Option in the Com-
mercial Mobile Radio Services

WT Docket No. 97-207

To: The Commission

COMMENTS OF BELL SOUTH

BellSouth Corporation ("BellSouth"), by its attorneys, hereby submits these comments in response to the "Petition for Expedited Consideration" filed by the Cellular Telecommunications Industry Association ("CTIA") on February 23, 1998 ("CTIA Petition"). *See Public Notice, "Commission Seeks Comments on 'Petition for Expedited Consideration of the Cellular Telecommunications Industry Association' in the Matter of Calling Party Pays Service Option in the Commercial Mobile Radio Service,"* DA 98-468 (Mar. 9, 1998). As shown herein, CTIA has failed to demonstrate any need to expedite the CPP inquiry,¹ much less a compelling one, and doing so would be counterproductive.

DISCUSSION

In its petition, CTIA claims that there is "minimal" disagreement in the industry concerning CPP and that "[t]he record in this proceeding supports the rapid issuance of an NPRM to adopt federal rules governing CPP service offerings."² In fact, the record demonstrates no compelling

¹ The Commission initiated its inquiry regarding calling party pays ("CPP") in a notice of inquiry released on October 23, 1997. *See Calling Party Pays Service Option in the Commercial Mobile Radio Services*, WT Docket No. 97-207, *Notice of Inquiry*, 12 F.C.C.R. 17,693 (1997) (NOI). The comment and reply cycle recently closed, following a Commission-granted extension, on January 16, 1998.

² CTIA Petition at 2.

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reason for FCC action at this time. It contains virtually no factual information supporting the initiation of a rulemaking³ and demonstrates there is no industry consensus on the issue. In fact, there is *substantial* disagreement in the industry on how to proceed. Numerous commenters, many of whom are members of CTIA, opposed a variety of regulatory options concerning CPP.⁴ These comments in opposition demonstrate that there exists significant uncertainty and disagreement concerning the need for, and the extent of, Commission regulatory intervention in the domestic CPP arena and counsels in favor of a deliberated, not hasty, response by the Commission.

There is little empirical evidence or other studies in the record regarding the feasibility of CPP in this country. In the *NOI*, the Commission specifically requested “empirical studies that have documented the effects of CPP on subscribership, traffic patterns, . . . and minutes of use in the markets in which CPP has been implemented.”⁵ The Commission also sought “empirical studies and information on whether [CPP] encourages consumers to subscribe to mobile telephony services, . . . to disclose their mobile telephone number, and to keep their mobile telephone in an active

³ See *infra* notes 5-7 and accompanying text.

⁴ See, e.g., Comments of AirTouch Communications, Inc. at iv (opposing mandated CPP and federal rules governing terms and conditions of CPP or other federal consumer protection rules); AT&T Wireless Services, Inc. at 1 (opposing the adoption of specific rules to promote the wider availability of CPP); Bay Springs Telephone Company, *et al.* at 2 (opposing mandated LEC provision of the CPP service option); Bell Atlantic at 6-7 (opposing regulation of CMRS carriers’ CPP offerings or LEC-CMRS CPP billing arrangements); Freepage Corporation at 2 (opposing required use of regular CPP numbers instead of interactive lines); Motorola, Inc. at 18 (opposing detailed federal regulatory requirements governing the provision of CPP or a mandate to provide CPP); Paging Network, Inc. at i (opposing federal regulatory action to implement CPP); Personal Communications Industry Association at 3 (opposing required deployment of CPP); SBC Communications, Inc. at 25 (opposing establishment of a CPP rulemaking); Sprint Corporation at 2 (opposing Commission action dictating when, where, and whether CPP is implemented); United States Telephone Association at 2 (opposing the availability of CPP being determined by regulation); U S West at 6 (opposing federal regulatory intervention to achieve a national CPP billing solution).

⁵ See *NOI*, 12 F.C.C.R. at 17,698.

operational mode.”⁶ Very little information was supplied in response to these requests because *it simply is not currently available.*⁷

This fact has not changed in the four months since the close of the pleading cycle. Moreover, CTIA provides no new facts or data to support its contention that this inquiry needs to be expedited. In order for the Commission to make an informed decision regarding whether or not to initiate a rulemaking proceeding regarding CPP, it is essential that it receive and evaluate empirical evidence and studies regarding CPP’s viability within the United States. The results of upcoming CPP trials or roll-outs planned by some industry participants may supply the Commission with the empirical evidence it sought in the *NOI*. AT&T Wireless, for example, announced plans to begin a CPP trial in Minnesota in early April of this year in which wireless customers will receive a “1-500” phone number informing callers they will be charged 39 cents per minute.⁸ The Commission should await the results of these trials before expending time and resources deciding whether to initiate a formal rulemaking. Proceeding to a rulemaking now would be premature; doing so on an expedited basis would be even more unwise.

Allowing these market trials and planned roll-outs to take place unencumbered by premature federal regulation is consistent with views expressed by commenters that the Commission should

⁶ See *id.* at 17,699.

⁷ See, e.g., Comments of Sprint Spectrum L.P. at 2 (“At present, there is no direct evidence of CPP’s ability to foster competition in the United States”); Vanguard Cellular Systems, Inc. at 6 (“[T]here is little empirical experience with CPP in the U.S.”); GTE Service Corporation at 8-9 (“GTE does not have enough data to determine what effect, if any, CPP might have on traffic flows, subscribership, digital service, etc.”); U S West, Inc. at 4-5, 9 n.15 (“Neither USWC nor NewVector has conducted any studies addressing whether or not CPP has any effect on traffic flow, or documenting the effects of CPP availability on CMRS subscribership, traffic patterns, or minutes of use.”); SBC Corporation Inc. at 7 (“Although several carriers have offered CPP, the results are inconclusive at best.”).

⁸ See Mike Mills, *Obstacles on the Cell Phone Course?*, Wash. Post, Apr. 3, 1998, at D1, D12.

allow the marketplace to guide the development of CPP in this country.⁹ Even CTIA agrees that CPP should be shaped by market forces.¹⁰ Accordingly, the Commission should allow market forces to work and there is no reason for federal intervention at this time.¹¹ The Commission can revisit the issue at a later date, if necessary.

⁹ See, e.g., Comments of GTE Service Corporation at 9-12 (arguing that the marketplace, and not the Commission, should determine whether CMRS providers offer CPP); Motorola, Inc. at 18-19 & n.44 (asserting that the Commission should allow market forces to work rather than issuing regulations); SBC at 7-9 (recommending that the marketplace, and not federal intervention, should determine the availability of CPP); Sprint Corporation at 2 (stressing that “it should be the marketplace, not the Commission, which dictates when, where and whether CPP is implemented”); United States Telephone Association at 2-5 (noting that the competitive market, and not regulation, should determine CPP availability); Reply Comments of the Rural Telecommunications Group at 1 (supporting leaving the development of the CMRS CPP option “to the direction of the marketplace”).

¹⁰ See CTIA Petition at 3-4.

¹¹ BellSouth, PageNet, and SBC specifically stated that the Commission should decline to issue a notice of proposed rulemaking at this time. See Reply Comments of BellSouth Corporation at 5; Comments of Paging Network, Inc. at 6; Comments of SBC Communications Inc. at 2-3, 25; Reply Comments of SBC Communications Inc. at 2.

CONCLUSION

Because of the lack of industry consensus surrounding the implementation of CPP in this country, and the lack of empirical evidence to date, the Commission should reject CTIA's petition to expedite this proceeding. Commission resources and the public interest would be better served if the Commission awaits the results of anticipated and ongoing CPP trials in this country and assesses the results of those trials before deciding whether to initiate a rulemaking.

Respectfully submitted,

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May 8, 1998

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